

King-Hackney, Ashadee

From: Manville, Jennifer
Sent: Monday, December 07, 2015 11:41 AM
To: Manville, Jennifer
Subject: Fw: Draft Letter from RA to KBIC Tribal President
Attachments: Swartzletter.Jan2012.doc

----- Forwarded by Jennifer Manville/R5/USEPA/US on 12/07/2015 12:41 PM -----

From: Jennifer Manville/R5/USEPA/US
To: Kestutis Ambutas/R5/USEPA/US@EPA,
Date: 03/13/2012 09:18 AM
Subject: Draft Letter from RA to KBIC Tribal President

Casey,

Attached is a draft letter from the RA responding to concerns raised by the KBIC Tribal President at a meeting in late January. Let me know if you wish to discuss or have suggestions for changes.

Jenny

(See attached file: Swartzletter.Jan2012.doc)

draft March 13, 2012

Warren Swartz, Tribal Council President
Keweenaw Bay Indian Community
107 Beartown Road
Baraga, Michigan 49908

RE: L'Anse Warden Electric Company LLC

Dear President Swartz:

Thank you for taking the time to attend the listening session on mining concerns that the U.S. Environmental Protection Agency held on January 26, 2012, in Marquette, Michigan. I appreciated your frank comments and observations on the regulatory process for mining operations. In follow-up to the meeting I have initiated discussions within EPA Region 5 to determine how the Agency may better respond to exploration and development activities associated with mineral extraction. I hope to have the opportunity to further discuss with you and other tribal leaders how the Agency could partner with the tribes to ensure that tribal resources are considered and protected.

During that meeting, you also raised concerns about the potential for contamination to Keweenaw Bay from precipitation runoff and windblown material from the railroad ties that are used as a fuel source at the L'Anse Warden Electric Company. It is our understanding that L'Anse Warden Fuel Aggregate stockpiles railroad ties on leased land near the power plant. Both the power plant and the fuel storage area are located off reservation and are regulated by the Michigan Department of Environmental Quality (MDEQ). Under EPA's federal oversight role, I requested that my staff in the Air and Radiation Division and the Water Division investigate whether the storage of the fuel source is in compliance with applicable federal and state requirements.

Based on information provided by the MDEQ, staff from Air and Radiation Division believes that the facility is properly permitted to burn railroad ties. MDEQ inspectors have visited the facility on more than one occasion and found no irregularities from the onsite chipping operation. At a minimum, the facility is required to meet a 20 percent opacity limit, which the MDEQ believes the facility would be unlikely to exceed. Based on the current applicable regulations under the Clean Air Act, EPA has not identified any violation at this facility.

Under the Clean Water Act, the L'Anse Warden Fuel Aggregate is required to have an authorization to discharge storm water associated with industrial activity. The facility has a storm water prevention plan and the operator claims that a Notice of Intent (NOI) was submitted in 2008 for coverage under the MDEQ industrial storm water general permit. The MDEQ has no record of that NOI. In February 2011, the facility submitted an NOI to MDEQ. Processing has been delayed due to staffing issues; however, MDEQ indicates that staff resumed processing NOIs for storm water general permits in late February 2012. In March 2011, MDEQ inspected the facility and found the storm water controls to be satisfactory. The inspection did not assess compliance with the general permit because the facility did not have discharge authorization

under the permit. After it receives authorization to discharge storm water, staff from the Water Division believes the L'Anse Warden Fuel Aggregate site will have adequate controls in place to address precipitation runoff.

I hope this information is helpful. If your staff would like to further discuss the information in this letter, we would be glad to schedule a conference call with staff from the Air and Radiation Division and the Water Division. Please contact Jennifer Manville, EPA Tribal Liaison for Michigan at (231) 922-4769, or at manville.jennifer@epa.gov to make arrangements.

Sincerely,

Susan Hedman
Regional Administrator